

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Patentee : David M. Shilliday, et al.
Ser. No. : 10/589,778
Filing Date : April 25, 2008
For : INFLATABLE CUSHIONING DEVICE
Examiner : Fleming, Faye M.
Art Unit : 3616
Atty. Docket : 53982/333698
Patent No. : 7,837,223
Issue Date : November 23, 2010

Mail Stop: Petition
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Date: December 29, 2010

**REQUEST FOR RECONSIDERATION OF PATENT TERM INDICATED ON
PATENT PURSUANT TO 37 C.F.R. 1.705 (d)**

Sir:

1. The above-referenced patent issued on November 23, 2010. The patent indicated that the PTA is 187 days. It is believed that the correct total PTA to date is 621 days.
2. The number of PTA credits of 187 days for PTO delay under 35 U.S.C. § 154(b)(1)(A) and 37 C.F.R. § 1.702(a)(1) and 35 U.S.C. § 154(b)(1)(B) and 37 C.F.R. § 1.702(b) that is set forth on the enclosed PTA History printed on December 8, 2010 (Exhibit A) is incorrect. Patentees believe that total PTA credit of 621 days is appropriate based upon the following.
3. In accordance with § 1.705(d), this application for patent term adjustment is filed within two months of the November 23, 2010 issue date of the patent.
4. The following statements are required by 37 C.F.R. § 1.705(b)(2)(i).
 - i) The correct total PTA credit is 653 days.
 - ii) The basis for the 194 days PTA credit is under §§ 1.702(a)(1) and is due to the PTO's failure to mail a notification under 35 U.S.C. § 132 or a notice of allowance within 14 months of the application's filing

date. The basis for the 459 days is under § 1.702(b) and is due to the PTO's failure to issue a patent within three years of the commencement date.

(194 days plus 459 days = 653 days.)

5. The following statements are required by 37 C.F.R. § 1.705(b)(2)(ii).
- i) The relevant dates as specified in § 1.703(a) for one part of the PTA credit is as follows:

The date of June 26, 2009, which is the date that is the day after the date that is fourteen months on which the application fulfilled the requirements under 35 U.S.C. § 371, and the date of September 21, 2009, which is the mailing date of a notification under 35 U.S.C. § 132. This period of delay runs from June 26, 2009 to September 21, 2009. This period of delay is 88 days.

The date of April 12, 2010, which is the date that is the day after the date that is four months after the date a reply under 35 U.S.C. § 1.111 was filed, and July 27, 2010, the date of mailing an action under 35 U.S.C. § 132. This period of delay runs from April 12, 2010 to July 27, 2010. This period of delay is 106 days.

(88 days plus 106 days equals 194 days.)

- (ii) The relevant dates as specified in § 1.703(b) for the other part of the PTA credit are as follows:

The date of August 21, 2009, which is the day after the date that is three years on which the application commenced under 35 U.S.C. 371(b) or (f), and the date of November 23, 2010, which is the date of issuance of the patent. This period of delay runs from August 21, 2009 to November 23, 2010. This period of delay is 459 days.

Excluded from this delay is the overlap period beginning on August 20, 2009 and ending on September 21, 2009. This period of overlap is 32 days.

(459 days minus 32 days equals 427 days.)

6. Any patent granted on this application is not subject to a terminal disclaimer. See 37 C.F.R. § 1.705(b)(2)(iii).

7. The following statements are required by 37 C.F.R. § 1.705(b)(2)(iv)(A). There were no circumstances constituting a failure to engage in reasonable efforts to conclude processing or examination of the above-referenced application as set forth in § 1.704.

8. Patentees request reconsideration of the patent term as indicated on the patent from 187 days to 621 days.

9. Patentees authorize the Commissioner of Patents to charge the firm's credit card for the fee due under § 1.18(e). Applicants authorize the Commissioner of Patents to charge any additional fees due to Deposit Account No. 11-0855.

Respectfully submitted,



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EXHIBIT A

10/589,778 INFLATABLE CUSHIONING DEVICE

12-08-
2010::12:52:01**Patent Term Adjustments**

Patent Term Adjustment (PTA) for Application Number: 10/589,778

Filing or 371(c) Date:	04-25-2008	Overlapping Days Between {A and B} or {A and C}:	0
Issue Date of Patent:	11-23-2010	Non-Overlapping USPTO Delays:	187
A Delays:	88	PTO Manual Adjustments:	0
B Delays:	99	Applicant Delays:	0
C Delays:	0	Total PTA Adjustments:	187

Patent Term Adjustment History Explanation Of Calculations

Number	Date	Contents Description	PTO (Days)	APPL (Days)	Start
57.5	11-23-2010	PTA 36 Months	99		0
57	11-23-2010	Patent Issue Date Used in PTA Calculation			0
56	10-25-2010	Export to Final Data Capture			0
55	10-21-2010	Finished Initial Data Capture			0
54	10-22-2010	Dispatch to FDC			0
53	10-19-2010	Application Is Considered Ready for Issue			0
52	10-18-2010	Issue Fee Payment Verified			0
51	10-18-2010	Issue Fee Payment Received			0
50	09-07-2010	Export to Initial Data Capture			0
49	09-02-2010	Mail Notice of Allowance			0
48	08-31-2010	Issue Revision Completed			0
47	08-31-2010	Document Verification			0
46	08-31-2010	Notice of Allowance Data Verification Completed			0
45	08-30-2010	Notice of Allowability			0
44	08-26-2010	Date Forwarded to Examiner			0
43	08-23-2010	Response after Non-Final Action			0
42	07-27-2010	Mail Supplemental Non-Final Action			0
41	07-26-2010	Supplemental Non-Final Action			0

40	03-17-2010	Mail Non-Final Rejection		0
39	03-15-2010	Non-Final Rejection		0
38	01-02-2010	Date Forwarded to Examiner		0
37	12-11-2009	Response after Non-Final Action		0
36	09-21-2009	Mail Non-Final Rejection	88	11
35	09-20-2009	Non-Final Rejection		0
33	04-28-2008	Information Disclosure Statement considered		0
32	05-30-2008	Information Disclosure Statement considered		0
26	09-08-2009	Case Docketed to Examiner in GAU		0
25	09-08-2009	Case Docketed to Examiner in GAU		0
24	09-04-2008	PG-Pub Issue Notification		0
23	08-20-2008	Case Docketed to Examiner in GAU		0
22	08-15-2008	IFW TSS Processing by Tech Center Complete		0
21	05-30-2008	Reference capture on IDS		0
20	05-30-2008	Information Disclosure Statement (IDS) Filed		0
19	04-28-2008	Reference capture on IDS		0
18	04-28-2008	Information Disclosure Statement (IDS) Filed		0
13	06-04-2008	Application Dispatched from OIPE		0
12	05-30-2008	Information Disclosure Statement (IDS) Filed		0
11	04-25-2008	371 Completion Date		0
10	05-23-2008	Sent to Classification Contractor		0
9	05-23-2008	Notice of DO/EO Acceptance Mailed		0
8	05-23-2008	Filing Receipt		0
7	04-25-2008	Additional Application Filing Fees		0
6	04-25-2008	A statement by one or more inventors satisfying the requirement under 35 USC 115, Oath of the Applic		0

5	04-28-2008	Information Disclosure Statement (IDS) Filed	0
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